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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Draft resolution submitted by the Chairman on the basis of informal consultations

Question of human rights in Afghanistan

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949[3] and the Additional Protocols thereto, of 1977,[4]

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide,[5] the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[6] the Convention on the Rights of the Child,[7] the Geneva Convention relative to the Protection of Civilian Persons in Time of War[8] and the conventions of the International Labour Organization on equal remuneration (Convention No. 100) and on the abolition of forced labour (Convention No. 105),

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[4] Ibid., vol. 1125, Nos. 17512 and 17513.
[5] Resolution 260 A (III).
[6] Resolution 39/46, annex.
[7] Resolution 44/25, annex.
[8] United Nations, *Treaty Series*, vol. 75, No. 973.

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and recalling that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,[9]

Welcoming the accession of Afghanistan to the Optional Protocols to the Convention on the Rights of the Child, on the involvement of children in armed conflict,[10] and on the sale of children, child prostitution and child pornography,[11] and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction,[12]

Recalling that, as a State party to those international instruments, Afghanistan has obligations to report on their implementation,

Recalling also all its relevant resolutions, as well as the resolutions and presidential statements of the Security Council, the decisions of the Economic and Social Council, the resolutions and decisions of the Commission on Human Rights and the resolutions of the Commission on the Status of Women,

Recalling further Security Council resolutions 1333 (2000) of 19 December 2000, 1378 (2001) of 14 November 2001, 1383 (2001) of 6 December 2001, 1401 (2002) of 28 March 2002, 1413 (2002) of 23 May 2002 and 1419 (2002) of 26 June 2002 on the situation in Afghanistan,

Recalling Security Council resolutions 1296 (2000) of 19 April 2000 on the protection of civilians, 1379 (2001) of 20 November 2001 on children and armed conflict, 1325 (2000) of 31 October 2000 and the statements by the President of the Council of 31 October 2001[13] and 31 October 2002,[14] on women, peace and security,

Warmly welcoming the conclusion of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions (the Bonn Agreement), signed at Bonn, Germany, by the Afghan parties, on 5 December 2001, which reaffirms the independence, national sovereignty and territorial integrity of Afghanistan and promotes national reconciliation, lasting peace, security and respect for human rights, and stressing the important role entrusted to the United Nations in that framework,

Warmly welcoming also the election, by the Emergency Loya Jirga, in a secret ballot, of the head of State, President Hamid Karzai, and the establishment of the Afghan Transitional Authority,

Affirming the primary responsibility of the Afghan Transitional Authority, supported by the United Nations, to establish, in view of the formation of a Government, an environment of good-governance, democracy and the rule of law which:

(a) Should be broad-based, gender-sensitive, multi-ethnic and fully representative of all the Afghan people and committed to peace with all countries,

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[9] Resolution 34/180, annex.
[10] Resolution 54/263, annex II.
[11] Ibid.
[12] See CD/1478.
[13] S/PRST/2001/31.
[14] S/PRST/2002/32.

(b) Should respect the human rights and fundamental freedoms of all the Afghan people, without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status,

(c) Should respect Afghanistan's international obligations, including by cooperating fully in international efforts to combat terrorism and illicit drug trafficking within and from Afghanistan,

(d) Should facilitate the urgent delivery of humanitarian assistance and the voluntary and orderly return, in safety and dignity, of refugees and internally displaced persons,

(e) Should promote democracy and the holding of free elections,

Recognizing that the accountability of perpetrators, including their accomplices, of grave human rights violations is one of the central elements of any effective remedy for victims of human rights violations, and *recognizing* also that a fair and effective national justice system is a key factor in ensuring the promotion and protection of human rights and fundamental freedoms and, ultimately, reconciliation and stability within a State,

Commending the activity of the Special Representative of the Secretary-General and the staff of the United Nations Assistance Mission in Afghanistan,

Stressing the importance of ensuring the full and effective participation of women in all decision-making processes regarding the future of Afghanistan,

Stressing also the importance of the economic reconstruction and development process and the need to ensure that it takes place in a coordinated and non-discriminatory manner, in a context of full respect of human rights and fundamental freedoms,

1. *Welcomes* the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan[15] and endorses the recommendations contained therein;

2. *Also welcomes* the decision of the Transitional Authority to establish the Constitutional Commission to undertake, with the assistance of the United Nations, the task of drafting a new Constitution reflecting, inter alia, Afghanistan's commitment to promote and protect human rights pursuant to its obligations under the international human rights instruments;

3. *Warmly welcomes* the establishment of the Independent Human Rights Commission, which has primary responsibility for advising on the promotion and protection of human rights and developing a national programme for the implementation of the relevant section of the Bonn Agreement;

4. *Invites* the relevant bodies of the United Nations, in particular the Office of the United Nations High Commissioner for Human Rights, within the framework of the United Nations Assistance Mission in Afghanistan:

(a) To assist in the full implementation of the human rights provisions of the Bonn Agreement and the National Human Rights Programme for Afghanistan,

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including through the establishment of an active human rights component in Afghanistan;

(b) To contribute to the work of the recently established Independent Human Rights Commission, whose responsibilities include the promotion of international human rights standards, human rights monitoring, the investigation of violations of human rights and the development of domestic human rights institutions with dedicated personnel and operative plans;

(c) To develop a human rights-based strategy addressing, in particular, issues of accountability, transitional justice, a national programme for human rights education, women's rights and the rights of the child;

5. *Commends* the steps already taken by the Transitional Authority to promote and protect human rights and fundamental freedoms, in order to guarantee, in particular, the rights of children, women and persons belonging to national, ethnic, religious or linguistic minorities and the rights to education, employment and freedom of religion and expression;

6. *Welcomes* the designation by the Transitional Authority of the members of the Judicial Commission and urges it to resume its work without delay with a view to restoring the rule of law by, inter alia, the establishment of an independent and impartial judiciary, which should function in conformity with international law standards relating to human rights;

7. *Urges* the Transitional Authority, the international community and the United Nations, in particular the United Nations Assistance Mission in Afghanistan, to provide the Commissions established under the Bonn Agreement with the support necessary to fulfil their mandates;

8. *Also urges* the Transitional Authority to continue its efforts to re-establish the rule of law, including by ensuring that law enforcement agencies respect and uphold human rights and fundamental freedoms;

9. *Calls upon* the Transitional Authority to develop a culture of democracy, which includes democratic institutions as well as a free press and autonomous electronic media, all of which contribute to promote tolerance and respect for human rights;

10. *Expresses grave concern*:

(a) About the recent reports of ethnically motivated violence directed, in particular, against certain ethnic groups which are in a minority in affected areas lacking the rule of law and its enforcement machinery;

(b) About recent cases of arbitrary arrest and detention and of summary trials in some areas of the country;

(c) About recent attacks against women and girls, including rape and other forms of sexual violence, forced marriage, cases of women and girls being detained for violating social codes and attacks on girls' schools;

11. *Calls upon* the Transitional Authority and all Afghan groups, in application of the Bonn Agreement:

(a) To respect fully all human rights and fundamental freedoms without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status;

(b) To adhere strictly to their obligations under human rights instruments and international humanitarian law, inter alia, in relation to the treatment of prisoners;

(c) To implement fully demobilization and social reintegration activities, including those related to war-affected children;

(d) To facilitate the provision of efficient and effective remedies to the victims of grave violations and abuses of human rights and of international humanitarian law and to bring the perpetrators to justice in accordance with international standards and, in particular, with a view to combating impunity;

(e) To treat all suspects and convicted or detained persons in accordance with relevant international law and to refrain from arbitrary detention in violation of international law;

(f) To facilitate the voluntary and orderly return in safety and dignity of Afghan refugees and internally displaced persons as well as their reintegration;

12. *Welcomes* the establishment of the Ministry of Women's Affairs and encourages the Transitional Authority to provide the necessary support and resources to enable the Ministry to function effectively;

13. *Urges* the Transitional Authority to give high priority to the ratification of the Convention on the Elimination of All Forms of Discrimination against Women[9] to bring to an end, without delay, all violations of the human rights of women and girls and to take urgent measures to ensure fully:

(a) The repeal of any legislative, institutional and other measures in place that discriminate against women and girls and those that impede the realization of their human rights and fundamental freedoms;

(b) The full, equal and effective participation of women in civil, cultural, economic, political and social life throughout the country at all levels;

(c) Respect for the equal right of women to work and their reintegration into employment in all segments and at all levels of Afghan society;

(d) The equal right of women and girls to education without discrimination, the effective functioning of schools throughout the country and the admission of women and girls to educational programmes at all levels;

(e) Respect for the equal right of women and girls to security of person, including in the private sphere, and ensure that those responsible for physical attacks on women are brought to justice;

(f) The equal right of women and girls to access to health care;

14. *Notes with deep concern* the severity of the humanitarian crisis still affecting the country and the existence of millions of Afghan internally displaced persons and refugees;

15. *Recognizes* the huge burden shouldered by neighbouring countries, especially the Islamic Republic of Iran and Pakistan, appreciates the efforts undertaken in those host countries to ease the plight of Afghan refugees, and

encourages them to continue cooperating with the Office of the United Nations High Commissioner for Refugees towards that end;

16. *Welcomes* contributions of donors to meet the requirements of the Immediate and Transitional Assistance Programme for the Afghan People 2002, urges them to fulfil promptly the funding commitments made at the International Conference on Reconstruction Assistance to Afghanistan, held in Tokyo on 21 and 22 January 2002, and invites them to provide additional resources beyond those pledged in Tokyo;

17. *Urges* the international community to provide continued assistance to ensure an effective transition, consistent with the National Development Framework, from humanitarian assistance to the establishment of a longer term social and economic recovery, with a view to meeting, in particular, the needs of internally displaced persons and returnees;

18. *Welcomes* the activities of the Office of the High Commissioner for Refugees and other United Nations agencies to achieve the voluntary return of 1.7 million refugees, calls upon the Office of the United Nations High Commissioner for Refugees to continue implementing its plans for the voluntary and orderly repatriation of refugees in safety and dignity, in close cooperation with the Afghan Transitional Authority and with the support of other relevant United Nations agencies, and appeals to the international community to provide additional assistance for a durable solution to this problem;

19. *Notes with appreciation* the activities carried out by the International Committee of the Red Cross and other humanitarian organizations throughout the territory of Afghanistan;

20. *Appeals* to Member States, organizations and programmes of the United Nations system, specialized agencies and other international organizations to ensure that all United Nations operations integrate a gender perspective, including in the selection of personnel for their management, and that women benefit equally with men from such programmes;

21. *Urges* the Transitional Authority and all Afghan groups to ensure the safety, security and free movement of all foreign and local United Nations and associated personnel, as well as of all foreign and local personnel of humanitarian organizations, and their safe and unimpeded access to all affected populations;

22. *Also urges* the Transitional Authority and all Afghan groups to guarantee the access to aid and to education and health facilities of all Afghans without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, descent or other status;

23. *Calls upon* the Transitional Authority and all Afghan groups to cooperate fully with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan and all other special rapporteurs who request invitations to visit Afghanistan, and to facilitate their access to all sectors of society and to all parts of the country;

24. *Requests* the Secretary-General:

(a) To give all necessary assistance to the Special Rapporteur;

(b) To ensure, in consultation with the United Nations High Commissioner for Human Rights, the integration of a human rights capacity in the context of United Nations activities in Afghanistan, and also to ensure that the protection and promotion of human rights is central to the purposes and functions of the United Nations Assistance Mission in Afghanistan and that the Mission is fully equipped to implement effectively its human rights responsibilities under the terms of the Bonn Agreement;

25. *Invites* the Special Rapporteur to provide updates, as appropriate, of his reports on the situation of human rights in Afghanistan to the General Assembly and the Commission on Human Rights;

26. *Decides* to keep the situation of human rights in Afghanistan under consideration at its fifty-eighth session, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.